**IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL**

**P.I.L. Writ Petition No. 1375 of 2005**

Chandra Bhusan Singh Srivastava, Advocate
S/o Sri Harihar Prasad, aged 54 years
R/o 234 Awas Vikas Colony,
Udham Singh Nagar,
Uttaranchal …… Petitioner

Versus

1. State of Uttaranchal through Secretary Awas/Nagar Vikas, Uttaranchal Shasan, Dehradun.
2. State of U.P. through Secretary, Awas Vikas Vibhag, Lucknow, Uttar Pradesh.
3. Awas Vikas Parishad (Engineering Department) 104 Mahatma Gandhi Marg, Lucknow.
4. Union of India through Ministry of Urban Development, Nirman Bhawan, New Delhi. …… Respondents

Mr. Rajendra Dobhal, Advocate for the petitioner.
Mr. N.C. Gupta, Standing Counsel for respondent no. 1.
Mr. S.P.S Panwar, Addl. C.S.C. for respondent no. 2.
None for respondents 3 and 4.

**Coram: Hon'ble Rajeev Gupta, C.J.**
**Hon'ble M.M.Ghildiyal, J,**

**RAJEEV GUPTA, C.J.(Oral)**

Mr. Rajendra Dobhal, Advocate for the petitioner.

Mr. N.C. Gupta, Standing Counsel for respondent no. 1.

Mr. S.P.S Panwar, Addl. C.S.C. for respondent no. 2.

None for respondents 3 and 4.

2. Petitioner Chandra Bhusan Singh Srivastava, a practicing Advocate at Udham Singh Nagar, has filed this petition styled as 'Public Interest Litigation' for the following releifs:

"(I) Issue a writ, order or direction in the nature of certiorari to quash the auction notice (Annexure 3 to the writ petition).

(II) Issue a writ, order or direction in the nature of mandamus directing the State of Uttar Pradesh Awas Vikash Parishad not to interfere or transfer the property situated in the State of Uttaranchal.

(III) Issue a writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.
(IV) Award the petition in favour of the petitioner."

3. In the counter affidavit filed on behalf of respondent no. 3 Awas Vikas Parishad, it has been categorically stated that an agreement has been arrived at between the State of U.P. and the State of Uttaranchal in regard to the land in question and the same has been acted upon and none of the parties to the agreement has any grievance.

3. The petitioner's entire case is based on section 43 of the U.P, Reorganisation Act, 2000, which reads as follows:

> **"43. Land and goods.-** (1) Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Uttar Pradesh shall,-
>
> (a) if within the transferred territory, pass to the state of Uttaranchal; or
> (b) in any other case, remain the property of the state of Uttar Pradesh:
>
> Provided that where the Central Government is of opinion that any goods or class of goods should be distributed among the States of Uttar Pradesh and Uttaranchal, otherwise than according to the situation of the goods, the Central Government may issue such directions as it thinks fit for a just and equitable distribution of the goods and the goods shall pass to the successor States accordingly.
>
> Provided further that in case of any dispute relating to the distribution of any goods or class of goods under this sub-section, the Central Government shall endeavour to settle such dispute through mutual agreement arrived at between the Government of the successor States for that purpose, failing which the Central Government may, on request by any of the Governments of the successor States, after consulting both the governments of the successor States, issue such direction as it may deem fit for the distribution of such goods or class of goods, as the case may be, under this sub-section.
>
> (2) Stores held for specific purposes, such as use or utilization in particular institutions, workshops or undertaking or on particular works under construction, shall pass to the successor States in whose territories such institutions, workshops, undertakings or works are located.
>
> (3) Stores relating to the Secretariat and offices of Heads of Departments having jurisdictions over the

whole of the existing State of Uttar Pradesh shall be divided between the successor States in accordance with such directions as the Central Government may after consultation with the Government of each successor States, think fit to issue for a just and equitable distribution of such stores.

(4) Any other unissued stores of any class in the existing State of Uttar Pradesh shall be divided between the successor States in proportion to the total stores of that class purchased in the period of three years prior to the appointed day, for the territories of the existing States of Uttar Pradesh included respectively in each of the successor States:

Provided that where such proportion cannot be ascertained in respect of any class or stores or where the value of any class of such stores does not exceed rupees ten thousand, that class of stores shall be divided between the successor State according to the population ratio.

(5) In this section, the expression "land" includes immovable property of every kind and any rights in or over such property, and the expression "goods" does not include coins, bank notes and currency notes."

4. The respondents on the other hand are banking on the provisions of Section 60 of the Act which reads as follows:

**"60. Apportionment of assets or liabilities by agreement.-**

Where the successor States of Uttar Pradesh and Uttaranchal agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that provided for in the foregoing provisions of this Part, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner agreed upon."

5. On a bare perusal of the above quoted Section 60 it becomes apparent that an agreement between the State of U.P. and State of Uttaranchal shall have overriding effect on the other provisions of the Act. As it is the specific case of the respondents that the State of U.P. and the state of Uttaranchal have entered into an agreement within the provisions of Section 60 of the Act in regard to the lands in question, the petitioner cannot make any grievance in the matter based on the provisions contained in section 43 of the Act.

6. In this view of the matter and considering that the State of U.P. and the State of Uttaranchal who are represented before us in this matter have no grievance about the terms and conditions of the said agreement, we do not find any substance in the grievance projected by the petitioner in the petition filed as “Public Interest Litigation”.

7. The petition, therefore, fails and is hereby dismissed.

**(M.M. Ghildiyal, J.)** **(Rajeev Gupta, C.J.)**
**21.03.2006** **21.03.2006**

A